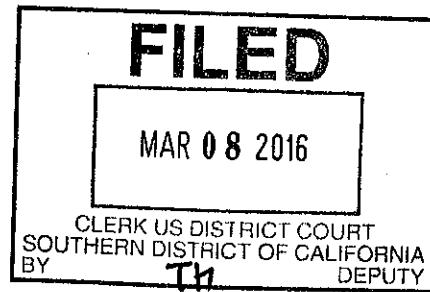


Clarice Tuck  
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In Pro Se



**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

CLARICE TUCK,

Plaintiff,

vs.

GUARDIAN PROTECTION  
SERVICES, INC.,

CASE NO. 15-CV-1376-JLS(JLB)

**PLAINTIFF'S RESPONSE  
TO DEFENDANT'S  
3<sup>rd</sup> MOTION TO DISMISS FOR  
FAILURE TO STATE A CLAIM**

Date: March 31, 2016

Time: 1:30 p.m.

Ctrm: 4A

Judge: Hon. Janis L. Sammartino

**PLAINTIFF'S RESPONSE TO DEFENDANT'S  
3<sup>rd</sup> MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM**

**I. INTRODUCTION**

1. Plaintiff, CLARICE TUCK, (hereinafter "TUCK") hereby responds to the Defendant GUARDIAN PROTECTION SERVICES INC., (hereinafter "GPS") 3<sup>rd</sup> Motion to Dismiss for Failure to State a Claim and Memorandum of Law, AND SO STATES:

- You are either pregnant, or, not pregnant.
- GPS has either broken numerous statutory Federal laws/statutes, or, they have not.
- GPS either had express written permission to call plaintiff TUCK's cell phone [more than 40 times] or, they did not.

- 1 • Plaintiff TUCK either knew she was signing an AMP SECURITY  
2 contract which was to be immediately [same day] sold, transferred or  
3 re-assigned to a separate third party company, or, she did not know.
- 4 • The original company who sold and had this plaintiff sign the original  
5 home security contract [AMP SECURITY] either fully explained the  
6 original AMP SECURITY contract and the very important fact that this  
7 same signed contract could be sold, transferred or re-assigned to  
8 another third party [like GPS or others] or, they did not.
- 9 • GPS either continued on with their concerted effort in collusion with  
10 AMP SECURITY to harass, annoy, embarrass and confuse this 87 year  
11 old plaintiff [even after she sent numerous certified written demands  
12 months earlier to "cease and desist all collection activities and calls to  
13 her personal cellular phone] or, they did not.
- 14 • Plaintiff TUCK is either spinning a yarn in open Federal court  
15 by making personal statements in her past motions alleging that this  
16 very same company GPS sold the mother of her personal hair dresser  
17 four (4) home security systems [three more than she needed or can use]  
18 or, this plaintiff is pleading the complete truth.
- 19 • GPS by and through their attorneys Cohen & Grigsby and the pleadings  
20 being filed in this honorable court by Robert M. Linn Atty.  
21 are either desperately reaching for any way possible to dismiss this  
22 Federal case for their client GPS further concealing GPS's National  
23 illegal activities and abuses to the elderly, or, they are not.
- 24 • Either GPS has a clean consumer business track record and some or all  
25 of the claims this plaintiff is now pleading are completely untrue, or,  
26 the multiple negative reviews presently posted on the internet about  
27 AMP SECURITY and GPS from other elderly mistreated clients are  
28 completely and utterly true and correct.
- I, CLARICE TUCK, plaintiff In Pro Se in the above-entitled case  
"does not say this", the United States Federal Government "says this"  
[Fully laid out in The Federal Rules of Civil Procedure] and further  
adjudicated and enforced by this District court.  
I am not making this stuff up.

## II STATEMENT OF FACTS

2. I, CLARICE TUCK would like to hereby re-allege and restate all  
of the jurisdictional allegations and general factual allegations laid out and pled in  
her 2<sup>nd</sup> Amended Complaint for Damages and Injunctive Relief filed with this court  
on January 29, 2016, and incorporate all herein.

1       3. I, CLARICE TUCK, have lived a long honest 87 year life thus far.  
2 By the grace of God, I have three beautiful children, seven grandchildren, and  
3 six great grandchildren [ all of which I have raised to be honest ] .  
4 I have also been fortunate enough in my life to have been married to a world war II  
5 flying veteran, who went on to be a pioneer in the Los Angeles City Fire  
6 Department. The most important thing my dearly missed late husband taught me  
7 over the years was to be honest and do not allow people to run over me and take  
8 advantage of my good nature.

9       4. I, CLARICE TUCK, am trying to avail myself of my legal rights and  
10 remedies using In Pro Se litigation against a large conglomerate company in GPS  
11 and their corporate attorney firm in open Federal court. I am also attempting to use  
12 these same Federal proceedings to protect myself, my family, my quality of life,  
13 my good credit, and my own personal well being against a company in GPS that is  
14 still to this day currently running a Nationwide scam. Presently, GPS is duping  
15 thousands of unsuspecting consumer clients using extortionary [gun to your head]  
16 coercive illegal business practices and tactics. All the while causing unwary  
17 consumer's thinking they are getting a legitimate security system from AMP  
18 SECURITY to end up owing extensive monies to a third party company in GPS,  
19 incurring numerous unnecessary problems, receiving illegal debt collection phone  
20 calls and recorded messages, engaging in unwanted calls conversations with GPS  
21 staff personnel, and becoming an unknowing victim and later receiving unjust bad  
22 credit ratings filed on their national consumer credit reports.

23       5. The plaintiff TUCK strongly believes and alleges herein that AMP  
24 SECURITY in collusion with GPS have targeted me because of my age, eighty  
25 seven (87) and the fact that I am a vulnerable single widow. During the multi-  
26 month call placing harassment campaign initiated by GPS they called my personal  
27 cell phone number 760-724-9439 many times multiple times in the same day,  
28 [sometimes before 8:00 am and after 9:00 pm at night] many of these times leaving

1 strange confusing voice messages on her cell phone voice mail service costing her  
2 monies.

3       **6.** GPS has also instructed their staff to place calls to plaintiff TUCK's cell  
4 phone number (760)724-9439 and enter into long unwanted and unrequested  
5 conversations with her about her security system and the fact that she had  
6 disconnected this same system on her own and thrown it in the trash. Threatening her  
7 and insisting she pay a grossly inflated five year long bill adding up to more than  
8 \$3,000 dollars [ when in fact AMP SECURITY was taking monthly direct  
9 withdrawals from the plaintiff's credit card and this plaintiff owed nothing to GPS.

10       **7.** This plaintiff's believes and hereby alleges that the GPS staff went on  
11 ignore the plaintiff's numerous certified written requests over several months time  
12 to "cease and desist" all collection activities including placed phone calls to the  
13 plaintiff's cell phone and continued on with their big scam, trying to hold this  
14 plaintiff to a five year contract she does not remember being explained to her  
15 properly or signing with her signature.

16       **8.** GPS also on multiple occasions GPS sent two men out to her home after  
17 dark un-announced or without an appointment (supposed GPS technicians) she  
18 had not requested service from at all, they claimed they were there at her home  
19 supposedly to service or check in on the free equipment AMP SECURITY installed.  
20 This further confused, annoyed, embarrassed and bewildered the plaintiff TUCK and  
21 left her scared and not knowing what to expect next.

22       **9.** Plaintiff TUCK has previously stated in her original Complaint that the  
23 defendant GPS's staff has called her cell phone number (760) 724-9439 more than  
24 forty (40) forty times, in reality, this plaintiff believes and hereby alleges that the  
25 number of phone calls placed to by GPS staff to her personal cell phone could  
26 number to more than two hundred (200) calls. The exact number can be deduced  
27 during the discovery phase of this trial.

1        10. GPS by and through their attorneys are desperately trying to protect their  
 2 client GPS from being fairly adjudicated in Federal court for GPS's past and  
 3 ongoing illegal activities by rejecting everything this plaintiff has pled thus far as  
 4 frivolous and apparently rejecting everything across the board. All the while GPS  
 5 can continue on today it's multiple Nationwide scams and extortional activities on  
 6 other unsuspecting consumers of all ages.

7        11. GPS by and through their attorneys on page two (2) line #17 and again  
 8 pled on page five (5) line #1 in the defendant GPS's 3<sup>rd</sup> Motion to Dismiss for  
 9 Failure to State a Claim have either lied or are intentionally trying to mislead or  
 10 confuse this honorable court by either intermingling or filing with the court  
 11 multiple [very small print] duplicated exhibits, all the while naming each exhibit  
 12 different titles or names with every additional pleading.

13        12. This plaintiff would like to request this court to sit up and take  
 14 judicial notice of these same multiple confusing exhibits and the skewed or  
 15 confusing way the defendant GPS's attorneys are presenting this same purported  
 16 evidence [alleged contractual evidence never explained or shown to me by anyone]  
 17 to this honorable court. If this same skewed co-mingled documents were to be  
 18 looked at closely by anyone in the court it will become quite apparent quite quickly,  
 19 there is either a huge mistake, or intentional mistitling, co-mingling or multi exhibits  
 20 provided to the court that are all the same document.

21        13. One page [ the only page this plaintiff has ever seen, agreed to or signed]  
 22 is a Contract or Monitoring Agreement signed by plaintiff TUCK in front of AMP  
 23 SECURITY salesmen CLIFF COCKERALL with this plaintiff's signature and  
 24 phone number clearly indicated therein.

25        14. The second page is a Terms and Agreements Page  
 26 [plaintiff has NEVER seen this document]. But it would seem that the attorneys for  
 27 GPS would like to confuse the court or continue to try any means possible to get this  
 28 case throw out or dismissed. They are clearly calling one document one name in

1 frivolous, repetitive boring lengthy motions in an attempt to extend out these court  
2 proceedings long enough, to where I either get frustrated and give up, or, die of  
3 natural causes or old age.

4       **18.** Even if GPS did have express written permission from this plaintiff to  
5 call her cell phone [which is permission she NEVER gave GPS] GPS after receiving  
6 plaintiff TUCK's numerous written certified demands in early December 2014 to  
7 "cease and desist" all phone calls and collection activities immediately as required  
8 by Federal laws and statutes. Instead GPS ignored these same certified written  
9 requests and initiated a campaign more than two months after receiving these same  
10 demands to cease and desist by sending dunning demand letters, placing negative  
11 consumer credit on the plaintiff's national credit reports and calling her more than  
12 200 times.

13       **19.** Plaintiff TUCK is not by any means proficient in properly filing  
14 Federal pleadings as evidenced by the four (4) Document Discrepancies filed by  
15 this plaintiff in the honorable United States District Judge Janis L Sammartino's  
16 court on 11/18/15, 11/18/15, 01/04/16, 02/01/16 and would like to thank this court  
17 now for filing three of these same improperly filed motions Nunc Pro Tunc on her  
18 behalf. Please inform her if she needs to do anything else to properly file these same  
19 Nunc Pro Tunc filings.

20       **20.** I would also like to respectfully request of this court to allow my case to  
21 move forward to the discovery and other phases so I can prove and adjudicate my  
22 case eventually in front of a jury in open court. Please construe my pleadings which  
23 I have tried to put a lot of research and effort into preparing and filing liberally and  
24 with an open mind, I am an honest person.

25 ///

26 ///

27 ///

### III. CONCLUSION

Plaintiff has pled facts in her original Complaint and 2<sup>nd</sup> Amended Complaint sufficient to allow a court drawing on “judicial experience and common sense”, to infer “more than the mere possibility of misconduct”, which easily satisfies her burden of pleading under the FDCPA and TCPA claims she presents to this court now. Plaintiff’s claims should therefore survive dismissal by this court.

**WHEREFORE**, Plaintiff requests that this Honorable Court enter an order denying GPS’s Motion to Dismiss for Failure to State a Claim, instruct the attorneys for the Defendant GPS, COHEN & GRIGSBY, to cease filing frivolous motions forthwith. and in the alternative, if the Court determines Plaintiff has failed to state a claim, properly or in a timely manner this same plaintiff asks this honorable Court grant her leave to amend her Complaint.

Respectfully submitted,

Dated this 8<sup>th</sup> day of March 2016 Clarice Tuck  
CLARICE TUCK, Plaintiff In Pro Se



Clarice Tuck v. Guardian Protection Services, Inc.,  
United States District Court Case No. 15-CV-1376-JLS(JLB)

**CERTIFICATE OF SERVICE**


I, RICHARD CARUSO, the undersigned declare under the penalty of perjury that I am over the age of eighteen years and not a party to this action; that I served Guardian Protection Services, Inc. the following documents:

- **PLAINTIFF'S RESPONSE TO DEFENDANTS  
3RD MOTION TO DISMISS FOR FAILURE  
TO STATE A CLAIM**

By placing copies of the above-described documents filed with this court in a separate envelope, with postage fully pre-paid, for each address named below and deposited each in the U.S. mail.

Attorneys for Defendant, Guardian Protection Services, Inc.,

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Executed on this \_\_\_\_\_ day of March 2016 by  RICHARD CARUSO

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